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4 Attorneys for Plaintiff and Counterdefendant,  
5 AT&T CORPORATION  
6  
7

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA, NORTHERN DIVISION  
10

11 AT&T CORPORATION,

12 Plaintiff,

13 v.

14 DATAWAY INC. and dba DATAWAY  
DESIGNS,

15 Defendants.  
16

) Case No. C07-02440 MMC

) UNILATERAL CASE MANAGEMENT  
STATEMENT

) [F.R.C.P., Rule 16]

) S/C DATE: April 15, 2008

) TIME: 10:00 a.m.

) CTRM: E, 15<sup>th</sup> Floor

17  
18 Plaintiff AT&T Corporation ("AT&T"), without the cooperation of Defendant  
19 Dataway Inc. and dba Dataway Designs ("Dataway"), hereby submit its Unilateral Case  
20 Management Statement, as follows:  
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UNILATERAL CASE MANAGEMENT STATEMENT

1. Jurisdiction and Service: This Court has subject matter jurisdiction pursuant to Title 28 U.S.C. §1331 and Title 47 U.S.C. §201 et seq. No issues exist regarding personal jurisdiction or venue. No parties remain to be served.

2. Facts: AT&T contends that it is entitled to recover \$11,534.67 for calls placed through the telephone system owned and operated by Dataway to the AT&T Network (Legacy T) by dialing carrier access code 1010288. AT&T believes that Dataway disputes AT&T's claim and separately asserts counterclaims for Breach of Express Contract, Breach of Oral Contract, Fraudulent Inducement to Contract, Violations of Telecommunications Act - "Slamming", and Intentional Interference with Contractual Relations.

3. Legal Issues: AT&T contends Dataway is strictly liable for the charges. [*AT & T Corp. v. Community Health Group*, 931 F. Supp. 719, 723 (S.D.Cal. 1995); *AT&T v. New York Human Resources Administration*, 833 F.Supp. 962 (S.D.N.Y. 1993), *AT&T v. Jiffy Lube Int'l Inc.* (D.Md. 1993) 813 F.Supp. 1164, and *AT&T v. Intrend Ropes & Twines Inc.*, 944 F.Supp. 701 (C.D.Ill. 1996).]

4. Motions: AT&T is filing a motion for summary judgment.

5. Amendment of Pleadings: No amendments are contemplated at this time.

6. Evidence Preservation: No steps need to be taken to preserve evidence relevant to the issues reasonably evident in this action.

7. Disclosures: AT&T complied with the initial disclosure requirements of Fed. R. Civ. P. 26(a) on November 5, 2007. AT&T made a supplemental disclosure on April 7, 2008 in

1 accordance with Fed. R. Civ. P. 26(e). An initial disclosure under Fed. R. Civ. P. 26(a) from  
2 Dataway was never believed to have been received. Dataway made a "supplemental"  
3 disclosure under Fed. R. Civ. P. 26(e) on April 7, 2008.  
4

5 8. Discovery: AT&T has served written discovery and has set depositions for April 15,  
6 2008. AT&T contends that Dataway served written production requests which were  
7 objectionable for a variety of reasons. Dataway did not timely serve deposition notices.  
8

9 9. Class Actions: This is not a class action.  
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11 10. Related Cases: There are no related cases or proceedings pending before another judge  
12 of this court, or before another court or administrative body.  
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14 11. Relief: The complaint by AT&T seeks \$11,534.67, together with prejudgment interest  
15 of \$5.69 per day from September 25, 2006 using the rate of 18% per annum pursuant to  
16 AT&T Tariff F.C.C. No. 1, Section 2.5.4, plus costs of suit, including reasonable attorney's  
17 fees pursuant to AT&T Tariff F.C.C. No. 1, Section 2.5.3(E).  
18

19 The counterclaim by Dataway seeks recovery in an unspecified amount for Breach of  
20 Express Contract, Breach of Oral Contract, Fraudulent Inducement to Contract, Violations  
21 of Telecommunications Act - "Slamming", and Intentional Interference with Contractual  
22 Relations.  
23

24 12. Settlement and ADR: The parties participated in ADR by way of a mediation held  
25 January 25, 2008 which proved unsuccessful.  
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27 13. Consent to Magistrate Judge For All Purposes: The parties have consented to have a  
28 magistrate judge conduct all further proceedings including trial and entry of judgment.  
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1 14. Other References: The case is not suitable for reference to binding arbitration, a  
2 special master, or the Judicial Panel on Multidistrict Litigation.

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4 15. Narrowing of Issues: No issues can be narrowed by agreement, dispositive motions  
5 may be filed, there are no suggestions to expedite the presentation of evidence at trial (e.g.,  
6 through summaries or stipulated facts), and no request is being made to bifurcate issues,  
7 claims, or defenses.

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9 16. Expedited Schedule: This is not the type of case that can be handled on an expedited  
10 basis with streamlined procedures.

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12 17. Scheduling: Discovery deadline is April 15, 2008. Dispositive motion filing cutoff  
13 is June 10, 2008. Dispositive motion hearing cutoff is July 15, 2008.

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15 18. Trial: October 6, 2008.

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17 19. Disclosure of Non-Party Interested Entities or Persons: Plaintiff has filed the  
18 "Certification of Interested Entities or Persons" required by Civil Local Rule 3-16. The  
19 parties restate in this case management statement the contents of their certification by  
20 identifying any persons, firms, partnerships, corporations (including parent corporations) or  
21 other entities known by the party to have either: (i) a financial interest in the subject matter  
22 in controversy or in a party to the proceeding; or (ii) any other kind of interest that could be  
23 substantially affected by the outcome of the proceeding, as follows: AT&T Corporation,  
24 plaintiff.

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20. Other Matters: No other matters exist which may facilitate the just, speedy and inexpensive disposition of this action.

DATED: April 8, 2008

AIRES LAW FIRM

By: 

Timothy Carl Aires, Esq.  
Attorney for Plaintiff and Counterdefendant,  
AT&T CORPORATION

1  
2 **PROOF OF SERVICE**

3 STATE OF CALIFORNIA, COUNTY OF ORANGE

4 I, Timothy Carl Aires, am employed in the aforesaid county, State of California; I am  
5 over the age of eighteen years and not a party to the within action; my business address is:  
6 180 Newport Center Drive, Suite 260, Newport Beach, California 92660.

7 On April 8, 2008, I served the document entitled: *Unilateral Case Management*  
8 *Statement* on all interested parties in this action by placing a true and correct copy thereof,  
9 enclosed in a sealed envelope, addressed as follows:

10 Anne Leith-Matlock, Esq. ([anne-leith@matlocklawgroup.com](mailto:anne-leith@matlocklawgroup.com))  
11 Matlock Law Group, PC  
12 961 Ygnacio Valley Blvd.  
13 Walnut Creek, CA 94596

14 (check applicable paragraphs)

15 ☒ (BY MAIL IN THE ORDINARY COURSE OF BUSINESS) I am readily familiar  
16 with the business practice for collection and processing of correspondence for mailing  
17 with the U.S. Postal Service and the fact that correspondence would be deposited with  
18 the U.S. Postal Service that same day in the ordinary course of business; On this date,  
19 the above-named correspondence was placed for deposit at Newport Beach, CA and  
20 placed for collection and mailing following ordinary business practices.

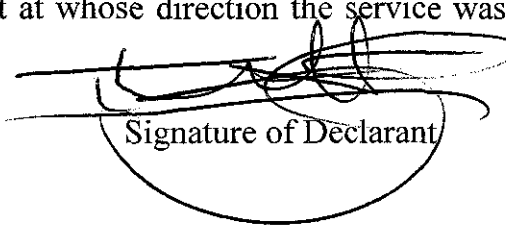
21 ☐ (BY PERSONAL SERVICE) I caused such document to be served by hand on the  
22 addressee.

23 ☐ (BY EXPRESS SERVICE) I caused such document to be deposited in a box or other  
24 facility regularly maintained by the express service carrier or delivered to an  
25 authorized courier or driver authorized by the express service carrier to receive  
26 documents, in an envelope or package designated by the express service carrier with  
27 delivery fees paid or provided for, addressed to the person on whom it is to be served.

28 ☐ (State) I certify (or declare) under penalty of perjury under the laws of the State of  
California that the foregoing is true and correct.

☒ (Federal) I declare (or certify, verify or state) under penalty of perjury that the  
foregoing is true and correct, and that I am employed in the office of a  
member of the bar of this Court at whose direction the service was  
made.

Executed on April 8, 2008

  
Signature of Declarant